
Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Paragraph 8. (See end of Document for details)

SCHEDULES

SCHEDULE 3

AMENDMENTS OF MENTAL HEALTH ACT 1983

8 For section 120 of the MHA substitute—

“120 General protection of relevant patients

- (1) The regulatory authority must keep under review and, where appropriate, investigate the exercise of the powers and the discharge of the duties conferred or imposed by this Act so far as relating to the detention of patients or their reception into guardianship or to relevant patients.
- (2) Relevant patients are—
 - (a) patients liable to be detained under this Act,
 - (b) community patients, and
 - (c) patients subject to guardianship.
- (3) The regulatory authority must make arrangements for persons authorised by it to visit and interview relevant patients in private—
 - (a) in the case of relevant patients detained under this Act, in the place where they are detained, and
 - (b) in the case of other relevant patients, in hospitals and regulated establishments and, if access is granted, other places.
- (4) The regulatory authority must also make arrangements for persons authorised by it to investigate any complaint as to the exercise of the powers or the discharge of the duties conferred or imposed by this Act in respect of a patient who is or has been detained under this Act or who is or has been a relevant patient.
- (5) The arrangements made under subsection (4)—
 - (a) may exclude matters from investigation in specified circumstances, and
 - (b) do not require any person exercising functions under the arrangements to undertake or continue with any investigation where the person does not consider it appropriate to do so.
- (6) Where any such complaint as is mentioned in subsection (4) is made by a Member of Parliament or a member of the National Assembly for Wales, the results of the investigation must be reported to the Member of Parliament or member of the Assembly.
- (7) For the purposes of a review or investigation under subsection (1) or the exercise of functions under arrangements made under this section, a person authorised by the regulatory authority may at any reasonable time—

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- (a) visit and interview in private any patient in a hospital or regulated establishment,
 - (b) if the authorised person is a registered medical practitioner or approved clinician, examine the patient in private there, and
 - (c) require the production of and inspect any records relating to the detention or treatment of any person who is or has been detained under this Act or who is or has been a community patient or a patient subject to guardianship.
- (8) The regulatory authority may make provision for the payment of remuneration, allowances, pensions or gratuities to or in respect of persons exercising functions in relation to any review or investigation for which it is responsible under subsection (1) or functions under arrangements made by it under this section.
- (9) In this section “regulated establishment” means—
- (a) an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000, or
 - (b) premises used for the carrying on of a regulated activity (within the meaning of Part 1 of the Health and Social Care Act 2008) in respect of which a person is registered under Chapter 2 of that Part.”

Commencement Information

II Sch. 3 para. 8 in force at 1.4.2009 by S.I. 2009/462, art. 2(1), **Sch. 1 para. 33** (with art. 11, Sch. 4)

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